

Exhibit 9

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

3 -----
4 **BLACK LOVE RESISTS IN THE RUST, et al.,**
5 **individually and on behalf of a class of**
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.
11 -----

12 **EXAMINATION BEFORE TRIAL OF RICHARD HY**

13 **APPEARING REMOTELY FROM**

14 **ERIE COUNTY, NEW YORK**

15
16 July 19, 2023

17 9:58 a.m. - 5:37 p.m.

18 pursuant to notice
19
20

21 REPORTED BY:

22 Carrie A. Fisher, Notary Public

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

-----**DEPAOLO CROSBY REPORTING SERVICES, INC.**-----

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

R E M O T E A P P E A R A N C E S

APPEARING FOR THE PLAINTIFFS:

COVINGTON & BURLING LLP
BY: ANDREW TIMMICK, ESQ.
The New York Times Building
620 Eighth Avenue
New York, New York 10018
(212) 841-1277

APPEARING FOR THE DEFENDANTS:

HODGSON RUSS LLP
BY: PETER SAHASRABUDHE, ESQ.
140 Pearl Street
Buffalo, New York 14202
(716) 848-1508

ALSO PRESENT:

EVA LILIENFELD, Law Clerk
Covington & Burling LLP

GIOVANNI SCARCELLA, Law Clerk
Covington & Burling LLP

ANJANA MALHOTRA, ESQ.
National Center for Law
and Economic Justice

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

~~RICHARD HY~~

1 Go ahead.

2 A. The checkpoint would have a number of cars in
3 the center of the street or on the side with
4 lights on so that we could be visible from a
5 long distance away, and vehicles would drive
6 up to an officer in the center of the road or
7 in that specific lane of travel. And the
8 officer would identify vehicle and traffic
9 violation; for example, bald tires or somebody
10 not wearing a seat belt or specifically
11 registration and inspections that were
12 expired, and then they would issue a ticket
13 for those violations.

14 If there were no violations seen, then
15 the vehicle was just told to carry on. Often
16 people would ask us, you know, what was the
17 checkpoint for. We'd say inspection,
18 registration, seat belt checks, and then they
19 would carry on with their day.

20 Q. Were inspection and registration violations a
21 focus for the Strike Force?

22 A. Yes.

23 MR. SAHASRABUDHE: Objection to form.

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~~RICHARD HY~~

1 Q. Why is that?

2 MR. SAHASRABUDHE: Objection to form.

3 A. I -- I'm not sure what you're asking is why is
4 what?

5 Q. Did your superiors inform you that inspection
6 and registration violations were a focus for
7 the Strike Force?

8 A. Yes.

9 Q. And did they tell you why they -- the Strike
10 Force had that focus?

11 A. I don't remember if they gave us specific
12 guidance as to why that was. I just don't
13 remember. I'm sorry.

14 Q. That's okay. That's fine to not remember.

15 As a Strike Force officer, what was your
16 role in the checkpoints?

17 A. Usually when an officer that was in that
18 center lane or on the specific lanes of travel
19 saw a violation and then was going to go write
20 up that vehicle, that officer would take the
21 identification of the person, tell them to go
22 park to the side, and then create that traffic
23 summons. They would then get replaced by an

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1 officer that was not doing that.

2 So if you can imagine kind of like a
3 circular diagram where you have an officer at
4 the checkpoint, sees a violation, stops the
5 vehicle, issues the summons, and then returns
6 to that point to check more vehicles. In that
7 circle you're having other officers replace
8 the officer that steps off the line. So
9 that's kind of I guess the way that you would
10 describe it is a round-robin kind of rotating
11 who is up next to start seeing which
12 violation, if any, there are in the oncoming
13 traffic.

14 Q. So just to make sure I understand correctly,
15 if an officer stopped a driver at a checkpoint
16 initially, they would continue to engage with
17 that driver throughout the driver's duration
18 at that checkpoint?

19 A. It could be that singular officer that saw
20 that or it could be their partner that was
21 next to them that also viewed the violation.
22 So you could have an instance where myself and
23 a partner -- we will say Officer Pitts was my

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1 general conversation about wondering how much
2 money the City was able to get from the
3 tickets that we issued.

4 Q. Did you understand generating revenue to be a
5 purpose of the checkpoints?

6 A. No.

7 Q. And did you ever recall having a conversation
8 about that topic with your superior officers
9 while on Strike Force?

10 A. Which topic?

11 Q. Generating revenue for the City as a result of
12 checkpoints.

13 A. No. I don't -- I don't think so.

14 Q. Were you ever asked to increase the number of
15 tickets you wrote at a checkpoint?

16 A. No.

17 Q. So at a checkpoint, if I recall correctly, you
18 mention that a driver might be stopped for a
19 violation and moved to a secondary location;
20 am I remembering that correctly?

21 A. It -- yes.

22 Q. And so I'm going to refer to that as a
23 secondary inspection. Does -- do you

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1 understand that if I use that term?

2 A. Yes.

3 Q. Okay. So in what instances would a motorist
4 be referred to a secondary inspection?

5 MR. SAHASRABUDHE: Objection to form.

6 Go ahead.

7 A. Well, I'm not sure what you mean by "a
8 secondary inspection."

9 Q. All right. So when you noticed a violation,
10 what would you do with that motorist?

11 A. Oh. If we were at a checkpoint and I was the
12 officer in the middle of the road or in those
13 lanes of travel and I saw an infraction for a
14 vehicle driving up, let's say an inspection
15 because they're so easy to see with the
16 different color and obviously the big hole in
17 the middle of the month, I would say: "Hey,
18 how you doing today? My name is Officer Hy,
19 Buffalo Police Department. Hey, what's going
20 on with the inspection? Your inspection is
21 overdue."

22 And I would make a conversation with the
23 driver to see if they were aware of it. And

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1 then I would ask them for their ID, and then I
2 would ask them to pull over to the side of the
3 road. And then I would walk over to them and
4 I would continue my conversation about the
5 inspection sticker and any other violations
6 that I might have seen.

7 Q. Were there any violations for which it was not
8 necessary to have a motorist pull over to the
9 side of the road to continue that interaction?

10 MR. SAHASRABUDHE: Objection to form.

11 A. I don't know what that means.

12 Q. So you mentioned that -- for example for an
13 inspection sticker, if you noticed a
14 violation, you would have them pull over to
15 continue the interaction with the motorist; is
16 that -- that's correct? Am I understanding
17 that right?

18 A. I think so. I want to make sure. You're
19 saying that if I saw an infraction, I would
20 ask them to pull over and then we would
21 continue our conversation?

22 Q. Yes. Is that correct?

23 A. Yes, that is correct.

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1 Q. And was there any violation, any violation for
2 which you didn't ask them to pull over; it
3 wasn't necessary to engage in that secondary
4 stop on the side?

5 A. I have seen --

6 MR. SAHASRABUDHE: Objection to form.

7 A. I've seen violations before and then still
8 told people to, you know, carry on, like bald
9 tires or people that were on their way to get
10 the vehicle inspected and they were able to
11 provide a, like a -- not a receipt but like a
12 handbill stating they were scheduled for
13 something at like Dunn Tire. But every time I
14 saw an infraction I didn't always issue a
15 ticket, if that's what you're asking.

16 Q. How did you determine when you would issue a
17 ticket and when you wouldn't if you saw an
18 infraction?

19 A. Oh geez, there were a lot of factors involved
20 in that.

21 Q. What factors?

22 A. Like you're able to look up a person's history
23 when you're writing a ticket. So if I'm

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1 Q. And do you recall an estimate for how long it
2 would take to verify someone's license -- or
3 identification, excuse me?

4 A. If they had their ID on them and it was that
5 individual's ID, several minutes. But if they
6 did not have their ID on them and you were
7 unable to find them in DMV, that process of
8 trying to identify who they were and their
9 license and the validity of that license,
10 honestly the time limit would be as long as
11 until the person wanted to be forthcoming and
12 honest with what their actual identity was.

13 Q. What's the longest you recall an interaction
14 like that taking during your time on the
15 Strike Force?

16 MR. SAHASRABUDHE: Objection to form.

17 A. I -- I don't know. I know that I'm sure one
18 time lasted over 45 minutes.

19 Q. Did the number of officers working on a
20 checkpoint have any impact on how long it
21 would take to get drivers through the
22 checkpoint?

23 A. No. That round-robin that I kind of explained

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1 usually kept things fairly fluid.

2 Q. Was any effort made by the Strike Force to
3 minimize the time spent at a checkpoint?

4 MR. SAHASRABUDHE: Objection to form.

5 A. I don't know what you mean by us trying to
6 minimize the time.

7 Q. I can rephrase.

8 Was any effort made by the Strike Force
9 to minimize the amount of time that drivers
10 would, for example, wait at a checkpoint or it
11 would take them to proceed through a
12 checkpoint from once they arrived?

13 A. Yes.

14 Q. And what efforts were made?

15 A. As I stated previously, if we saw a long line
16 of cars, you know, in the checkpoint line,
17 let's say in a southbound lane there was five
18 cars backed up, we would just send the five
19 cars through just to quickly get people to
20 where they're needed to go and to prevent that
21 quagmire of traffic backing up and backing up
22 for blocks on end.

23 It was usually like a visual. If you

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1 could see that there was, you know, a string
2 of ten cars, you knew it was time to push
3 people through to allow traffic to continue
4 normally and then restart the checkpoint. I
5 don't want to say -- it's not like you
6 start -- stopped it, but you would reengage
7 with identifying infractions once the flow of
8 traffic started again.

9 Q. So to make sure I'm understanding correctly,
10 you didn't -- in those cases you didn't stop
11 every individual that passed through the
12 checkpoint?

13 A. Correct.

14 Q. Were there other instances where you didn't
15 stop individuals who drove through
16 checkpoints?

17 MR. SAHASRABUDHE: Objection to form.

18 A. What do you mean?

19 Q. Outside of when you were waving drivers
20 through to continue the flow of traffic like
21 you just described, did you stop every driver
22 that arrived at a checkpoint and conducted an
23 inspection?

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1 A. Oh, no. No, we didn't stop -- I want to make
2 sure I say this and answer your question
3 correctly. We would stop every driver and
4 identify any infraction; but if there was no
5 infraction, we would let them go through. And
6 then also if we saw that there was a backup of
7 traffic, we would understand that the flow of
8 traffic was important and we would just wave a
9 number of cars through so that traffic could
10 flow normally. Does that answer your
11 question, or was I misunderstanding?

12 Q. Yeah, let me try to ask a little clarifying
13 question.

14 So in the instances where you were
15 trying to move traffic along, there were
16 instances where drivers passed through
17 checkpoints without ever interacting with you
18 at all besides to be waved by basically?

19 A. Yes.

20 Q. And was there any other time that a driver
21 would come through a checkpoint and not be
22 stopped at all?

23 A. I don't -- I don't think so. If they were

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1 Q. In addition to being aware of that, do you
2 recall any concrete steps that you were
3 instructed on taking to -- in light of -- in
4 light of the possibility of interacting with
5 minority communities?

6 MR. SAHASRABUDHE: Objection to form.

7 A. Could you say that again?

8 Q. Sure. You mentioned that the -- you had
9 conversations about the awareness of policing
10 in minority neighborhoods, correct?

11 A. Yes.

12 Q. Did those conversations include any sort of
13 concrete steps or action items that you could
14 take to improve policing in those minority
15 neighborhoods?

16 MR. SAHASRABUDHE: Objection to form.

17 A. From what I remember, it was more of an
18 understanding of seeing things -- I'm being
19 very general here, of seeing things through
20 other people's eyes and experiences that
21 others may have are not your own and to treat
22 everybody as an individual and not, you know,
23 specifically based on, you know, like race,

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1 color, creed, etcetera. You're supposed to be
2 kind of blind to what makes up the individual
3 and more open up to listening to the
4 individual.

5 Q. Did you have any specific concerns about
6 policing in neighborhoods of color?

7 A. No.

8 MR. SAHASRABUDHE: Objection to form.

9 Q. Did you feel you were adequately prepared by
10 the BPD to do so?

11 MR. SAHASRABUDHE: Objection to form.

12 A. Yes.

13 Q. And was that preparation in virtue of that one
14 training you're mentioning, or were there
15 other things that you feel prepared you to do
16 that type of policing?

17 MR. SAHASRABUDHE: Objection to form.

18 A. Specifically the field training program that
19 not only the law -- Erie County Law
20 Enforcement Academy puts you through but also
21 the City of Buffalo, Buffalo Police
22 Department's field training program.

23 Q. Would you describe that field training program

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1 in more detail?

2 A. So the similarities between the Erie County
3 Law Enforcement and the City of Buffalo's
4 field training program are that you are
5 embedded with your department, whoever you're
6 going to be working for, whoever has hired
7 you. For a certain period of time we are
8 doing the left see, right see where there is a
9 field training officer, usually a senior
10 officer who's got -- who's gone through some
11 field officer training so they're not just a
12 normal patrolman but a normal patrolman that's
13 also been -- gone through a course in how to
14 guide, mentor the next generation of police
15 officers.

16 And you go to calls, you're evaluated by
17 your first-line lieutenants and leaders and in
18 this on-the-job experience you get to learn,
19 see, and digest how your field training
20 officer, and you can jump around from one to
21 the other and go to different districts, deals
22 with or interacts with different members of
23 the community, race, color, creed, religion,

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1 you know, ethnic background, all of these
2 things you get to see in person.

3 Q. Were you ever a field training officer while
4 in the BPD?

5 A. No. No, not yet. I was in the academy, but I
6 wasn't a field training officer.

7 Q. And when you participated in that field
8 training program, do you recall being
9 instructed on racial bias or racially biased
10 policing in any way?

11 MR. SAHASRABUDHE: Objection to form.

12 A. No.

13 Q. But you mentioned that you do feel that the
14 field training program adequately prepared you
15 to police in Buffalo's neighborhoods of color?

16 MR. SAHASRABUDHE: Objection to form.

17 Q. Is that correct?

18 A. Yes.

19 Q. So do you feel that there is not any specific
20 racial bias training necessary to adequately
21 prepare you to police in Buffalo's
22 neighborhoods of color?

23 MR. SAHASRABUDHE: Objection to form.

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~~RICHARD HY~~

1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4
5 I, Carrie A. Fisher, Notary Public, in
6 and for the County of Erie, State of New York,
do hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken remotely
12 pursuant to notice at the time and place as
herein set forth; that said testimony was taken
down by me and thereafter transcribed into
typewriting, and I hereby certify the foregoing
testimony is a full, true and correct
transcription of my shorthand notes so taken.

13 I further certify that I am neither
14 counsel for nor related to any party to said
15 action, nor in anyway interested in the outcome
thereof.

16 IN WITNESS WHEREOF, I have hereunto
17 subscribed my name and affixed my seal this
7th day of August, 2023.

18
19 

20 Carrie A. Fisher
21 Notary Public - State of New York
22 No. 01FI6240227
23 Qualified in Erie County
My commission expires 5/02/27

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